

**Introduced by Senator Margett**

February 22, 2006

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An act to amend Section 831.7 of the Government Code, relating to liability.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1407, as introduced, Margett. Liability: hazardous recreational activities.

Existing law provides that neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, as specified. Existing law defines "hazardous recreational activities" for these purposes to include various recreational activities.

This bill would include scootering on a push scooter, as specified, among these activities.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 831.7 of the Government Code is
- 2     amended to read:
- 3     831.7. (a) Neither a public entity nor a public employee is
- 4     liable to any person who participates in a hazardous recreational
- 5     activity, including any person who assists the participant, or to
- 6     any spectator who knew or reasonably should have known that
- 7     the hazardous recreational activity created a substantial risk of
- 8     injury to himself or herself and was voluntarily in the place of
- 9     risk, or having the ability to do so failed to leave, for any damage

1 or injury to property or persons arising out of that hazardous  
2 recreational activity.

3 (b) As used in this section, “hazardous recreational activity”  
4 means a recreational activity conducted on property of a public  
5 entity ~~which~~ *that* creates a substantial ~~(as, as distinguished from~~  
6 a minor, trivial, or insignificant) *insignificant*, risk of injury to a  
7 participant or a spectator.

8 “Hazardous recreational activity” also means:

9 (1) Water contact activities, except diving, in places where, or  
10 at a time when, lifeguards are not provided and reasonable  
11 warning thereof has been given, or the injured party should  
12 reasonably have known that there was no lifeguard provided at  
13 the time.

14 (2) Any form of diving into water from other than a diving  
15 board or diving platform, or at any place or from any structure  
16 where diving is prohibited and reasonable warning thereof has  
17 been given.

18 (3) Animal riding, including equestrian competition, archery,  
19 bicycle racing or jumping, mountain bicycling, boating,  
20 cross-country and downhill skiing, hang gliding, kayaking,  
21 motorized vehicle racing, off-road motorcycling or four-wheel  
22 driving of any kind, orienteering, pistol and rifle shooting, rock  
23 climbing, rocketeering, rodeo, spelunking, sky diving, sport  
24 parachuting, paragliding, body contact sports ~~(i.e., sports in~~  
25 ~~which it is reasonably foreseeable that there will be rough bodily~~  
26 ~~contact with one or more participants)~~, surfing, trampolining, tree  
27 climbing, tree rope swinging, waterskiing, white water rafting,  
28 and windsurfing. For the purposes of this subdivision, “mountain  
29 bicycling” does not include riding a bicycle on paved pathways,  
30 roadways, or sidewalks. *For the purpose of this paragraph,*  
31 *“body contact sports” means sports in which it is reasonably*  
32 *foreseeable that there will be rough bodily contact with one or*  
33 *more participants.*

34 (4) *Scootering on a push scooter that includes, but is not*  
35 *limited to, all of the following characteristics:*

36 (A) *Nonmotorized.*

37 (B) *Aluminum or similar light-weight frame.*

38 (C) *Low-friction, free-rolling wheels made of polyurethane or*  
39 *any other similar material.*

(c) (1) Notwithstanding the provisions of subdivision (a), this section does not limit liability ~~which~~ *that* would otherwise exist for any of the following:

(1)

(A) Failure of the public entity or employee to guard or warn of a known dangerous condition, or of another hazardous recreational activity known to the public entity or employee that is not reasonably assumed by the participant as inherently a part of the hazardous recreational activity out of which the damage or injury arose.

(2)

(B) Damage or injury suffered in any case where permission to participate in the hazardous recreational activity was granted for a specific fee. For the purpose of this paragraph, a “specific fee” does not include a fee or consideration charged for a general purpose such as a general park admission charge, a vehicle entry or parking fee, or an administrative or group use application or permit fee, as distinguished from a specific fee charged for participation in the specific hazardous recreational activity out of which the damage or injury arose.

(3)

(C) Injury suffered to the extent proximately caused by the negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement utilized in the hazardous recreational activity out of which the damage or injury arose.

(4)

(D) Damage or injury suffered in any case where the public entity or employee recklessly or with gross negligence promoted the participation in, or observance of, a hazardous recreational activity. For purposes of this paragraph, promotional literature or a public announcement or advertisement ~~which~~ *that* merely describes the available facilities and services on the property does not in itself constitute a reckless or grossly negligent promotion.

(5)

(E) An act of gross negligence by a public entity or a public employee ~~which~~ *that* is the proximate cause of the injury.

1 (2) Nothing in this subdivision creates a duty of care or basis  
2 of liability for personal injury or for damage to personal property.  
3 (d) Nothing in this section ~~shall limit~~ *limits* the liability of an  
4 independent concessionaire, or any person or organization other  
5 than the public entity, whether or not the person or organization  
6 has a contractual relationship with the public entity to use the  
7 public property, for injuries or damages suffered in any case as a  
8 result of the operation of a hazardous recreational activity on  
9 public property by the concessionaire, person, or organization.